



C.R.P.No.3757 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3757 of 2024
and C.M.P.No.20457 of 2024

Narasingamurthy

... Petitioner

Vs

1. Priyanka

2. Durairaj

... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, pleaded to set aside the fair and decreetal order passed in I.A.No.693 of 2021 dated 04.07.2024 in O.S.No.67 of 2015 on the file of the learned Principal District Munsif, Tirukoilur and thus render justice.

For Petitioner : Mr.K.Gangadaran

ORDER

This Civil Revision Petition has been filed against the order passed by the learned Principal District Munsif, Tirukoilur, on 04.07.2024 in I.A.No.693 of 2021 in O.S.No.67 of 2015.



C.R.P.No.3757 of 2024

WEB COP 2.

The petitioner is the third defendant in the suit filed by the respondents/plaintiffs before the Principal District Munsif Court, Tirukoilur, in O.S.No.67 of 2015 seeking for declaration and recovery of possession. In the said suit, the petitioner/3rd defendant had entered appearance through his counsel, however, he was set ex-parte for non filing of written statement and the trial Court had passed an ex parte decree on 30.11.2015. Thereafter, the petitioner/3rd defendant has filed an application in I.A.No.693 of 2021 under Section 5 of the Limitation Act to condone the delay of 1540 days in filing the petition to set aside the *ex-parte* decree dated 30.11.2015 along with the set aside petition under Order IX Rule 13 of CPC. The trial Court, holding that the reasons stated by the petitioner/3rd defendant to condone the delay of seven years are not satisfactory and that he has not filed any documents to substantiate the reasons, has dismissed the application vide order dated 04.07.2024. Aggrieved over the same, this present civil revision petition has been filed by the petitioner/3rd defendant.

3. Learned counsel for the petitioner submitted that the respondents/plaintiffs have filed a suit in O.S.No.67 of 2015 on the file of the



C.R.P.No.3757 of 2024

Principal District Munsif Court, Tirukoilur, in which the petitioner is the 3rd defendant. He further submitted that during the pendency of the suit, the petitioner had arrived at compromise with the respondents/plaintiffs and the respondents had also agreed to settle the lease amount, therefore, the petitioner did not contest the suit. Thereafter, only after filing of the execution petition by the respondents, the petitioner came to know about the ex parte decree and thereby, he has filed an application in I.A.No.693 of 2021 under Section 5 of the Limitation Act to condone the delay of 1540 days in filing the petition to set aside the *ex-parte* decree dated 30.11.2015, whereas, the trial Judge failed to take into consideration the reasons stated by the petitioner and dismissed the application vide order 04.07.2024. Thereby, he seeks to set aside the same.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. On perusal of record, it is seen that the suit filed by the respondents/plaintiffs for declaration and recovery of possession was decreed by the trial Court on 30.11.2015, in which, the petitioner/3rd defendant was set ex-parte, thereby, the petitioner has filed an application to condone delay of seven



C.R.P.No.3757 of 2024

years in filing the set aside petition. The reasons stated by the petitioner is that based on the compromise arrived with the respondents, he did not appear before the Court and thereafter, he was not aware of the ex parte decree until the execution petition filed by the respondents/plaintiffs.

6. The trial Court, holding that the reasons stated by the petitioner to condone the delay of seven years were not satisfactory and he has not filed any documents to substantiate the reasons, had dismissed the petition seeking to condone the delay. In the opinion of this Court, the trial Court had rightly finding that the petitioner has not shown sufficient cause to condone the delay dismissed the application.

7. In view of the above, this Court does not find any illegality or infirmity in the order passed by the learned trial Judge. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

No costs.

18.09.2024

Index : Yes / No

Neutral Citation : Yes / No



C.R.P.No.3757 of 2024

ham

To : The Principal District Munsif, Tirukoilur.

WEB COPY



WEB COPY



C.R.P.No.3757 of 2024

A.D.JAGADISH CHANDIRA, J.

ham

**C.R.P.No.3757 of 2024
and C.M.P.No.20457 of 2024**

18.09.2024